

**INDIVIDUAL PRACTICES OF
JUDGE ERIK S. PITCHAL
KINGS COUNTY FAMILY COURT
PART 20**

NEW RULES IN EFFECT AUGUST 15, 2022

THE PART 20 E-MAIL ADDRESS IS: Kings_Part20@nycourts.gov

To facilitate the smooth and efficient management of cases in a busy child protective part, unless otherwise ordered all matters before Judge Pitchal should be conducted in accordance with the following practices.

Please note the following:

- 1) These rules will apply to all cases in Part 20, whether the appearances are handled virtually or in-person.
- 2) All e-mails sent to the Part 20 address must include all counsel of record, unless a specific and permissible reason for *ex parte* communication is cited.
- 3) EDDS is reserved for the filing of papers that are appropriate for inclusion in the UCMS case file. See below for specific instructions as to which papers should be filed through EDDS and which should not.
- 4) Counsel must check UCMS for signed orders. Whether the order is generated after an appearance or is signed “off the record,” if you are expecting an order, please check UCMS. This applies to signed orders to show cause, stipulations, and other similar papers. The part will not be e-mailing signed orders to counsel. Counsel who submitted the paper must obtain the signed copy and serve others accordingly.
- 5) Before submitting a time sensitive paper, always check the court’s Master Calendar to determine if Part 20 is opened or closed. If immediate judicial attention is needed when Part 20 is closed, please direct your inquiries to the CP Intake part.

Reports

All reports should be filed through EDDS and e-mailed to Part 20. **Reports are due two court days prior to the appearance.** Late reports may not be read before the scheduled appearance.

Subpoenas, AFC Vouchers, Proposed Orders, Stipulations, etc.

Any document requiring the Judge’s signature should be e-mailed to Part 20. Do not file with EDDS. A “reply-all” e-mail will be sent back with the signed attachment. If the Judge declines to sign the paper, a “reply-all” e-mail will be sent back with this information. In general, parties can expect a response within two court days of submission.

Proposed Settlement Terms

After all parties have come to an agreement to settle a pending matter, the party who drafted the proposal should e-mail Part 20, copying all counsel, and affirmatively represent that all parties are in agreement with the terms. The Court will endeavor to respond in advance of the scheduled appearance date to confirm whether it will accept the proposed terms.

In the event the parties agree to most terms, but there are some disagreements that can be resolved without an evidentiary hearing, it is acceptable to e-mail the Part with that information as well. For example, the parties might agree to a 1051(a) on a neglect matter, as well as the child(ren)'s status (placement, release to respondent, release to non-respondent, etc.), but disagree about the services which the Court should require of the respondent, and/or visitation. If the disputed issues can be resolved with exhibits and argument and without testimony, then counsel can convey the details in an e-mail to Part 20. The Court will review these communications and provide guidance to the parties in advance as to what to expect, procedurally, on the appearance date.

Please do not send e-mails to Part 20 which consist of back-and-forth discussion among counsel. Only send e-mails as directed herein.

E-mails concerning settlements should be sent as far in advance as possible, but in any event no later than 5pm on the court day immediately preceding the scheduled appearance.

Motions on Notice

Motions on notice can be made returnable for any date the part is scheduled to be open; please consult the Master Calendar. The return time should be 9am. Motions must be filed with EDDS and e-mailed to the Part 20 mailbox. No special permission is needed to file a motion on notice.

Return dates should be far enough in advance to allow sufficient time for proper service under the CPLR. Counsel must file proof of service no later than 5pm on the court day immediately preceding the return date, via EDDS and via e-mail to the Part 20 mailbox. Failure to provide proof of service, or failure to serve in accordance with the CPLR, will result in the Court adjourning the motion to a later date. If proper service is not made, with proof filed, by the second return date, the motion will be denied without prejudice. All orders on motions will be posted to UCMS after they are signed.

No motions on notice will be heard on the record on the return date. As per 22 N.Y.C.R.R. § 205.11(d), oral argument will be scheduled only if specifically requested. If no party requests oral argument, the Court will take the motion on submission and will issue a written order on the return date or soon thereafter. Any request for an appearance on the record must be made clear on the face of any party's motion papers. The party requesting an appearance must contact counsel of record and e-mail the Part with a list of dates that are good for all. A "reply-all" e-mail will be sent confirming the date for the appearance. If a party

requesting an appearance does not submit a list of dates that are good for all counsel, then the Court may take the matter under submission and issue a written decision without an appearance.

Motions *in limine* shall be made returnable for the fact-finding date. Parties should follow the briefing schedule set forth in the case management order. When the deadline for the last brief has passed, the Court will issue a written decision or else reserve decision and rule orally on the first day of fact-finding.

Response papers to motions on notice must be filed with EDDS and e-mailed to the Part 20 mailbox.

Orders to Show Cause

Whether or not they seek interim relief, motions brought by proposed order to show cause should be filed with EDDS and e-mailed to the Part 20 mailbox as soon as they are ready. No written permission is needed to file an order to show cause.

The moving party must explain in the papers the reason the motion could not have been brought on notice (e.g., the relief requested needs to be in place sooner than a motion on notice can be heard; the statute requires an order to show cause) and what efforts were made to resolve the matter on consent.

Orders to show cause that do not seek interim relief will generally be signed with an endorsement providing a briefing schedule and a return date. The Court will also indicate whether an appearance will occur on the return date or if the matter will be handled on submission. Any request by counsel for an appearance on the record must be made clear on the face of any party's papers. The party requesting an appearance must contact counsel of record and e-mail the Part with a list of dates that are good for all. A "reply-all" e-mail will be sent confirming the date for the appearance. If a party requesting an appearance does not submit a list of dates that are good for all counsel, then the Court may take the matter under submission and issue a written decision without an appearance.

Filing a proposed order to show cause does not guarantee that you will be heard the day it is filed even if interim relief is sought. In appropriate cases, interim relief may be granted or denied without a hearing. The explanation will generally be provided in writing. If any party wishes to be heard on the record regarding interim relief, you must e-mail the Part, copying all counsel of record with good times that day and the next court day. The Court will give the other attorneys a brief opportunity to provide their good times as well, and then a "reply-all" e-mail will be sent confirming the time for the appearance. **Please note: the time listed in UCMS for an order to show cause filed that day does NOT reflect the time selected by the Court. Rather, EDDS clerks select "placeholder" times in UCMS when they add the case to the calendar. The true time the matter will be heard will be reflected in an e-mail sent from the Part 20 mailbox.**

Response papers to orders to show cause must be filed with EDDS and e-mailed to the Part 20 mailbox, in accordance with the briefing schedule set forth in the signed order.

Exhibits

All exhibits, for any type of hearing, must be submitted in electronic format in advance of the scheduled appearance. Exhibits should be emailed to the Part 20 mailbox. **DO NOT FILE EXHIBITS WITH EDDS.**

For fact-finding, dispositional, and permanency hearings, exhibits are due five days in advance. For emergency hearings, exhibits are due by 5pm on the court day immediately preceding the scheduled appearance.

Documents and photos should be in PDF format; JPEGs cannot be accommodated. Videos should be in a format playable on a Windows PC. Any exhibit that cannot be e-mailed should be saved on a USB drive and filed with the clerk's office, who will pass the device on to the Court for a security scan before it is opened.

Exhibits should be labeled in a standard format including the identity of the offering party; the number (petitioner), letter (respondent), or Roman numeral (AFC); and the specific hearing in which it will be offered. For example: Petitioner's Ex 1 (FF); RM Ex. A (1028); AFC Ex. I (PH). The Court will save all proposed exhibits in a dedicated virtual evidence folder in a secure location until they are actually admitted into evidence, at which time the Court will take care of ensuring the properly labeled exhibit is in UCMS.

Requests for Adjournments

If counsel becomes aware of the need for an adjournment more than 24 hours in advance of the scheduled appearance, counsel should first notify the other attorneys and seek their consent. Once a response has been received from all parties, or after a reasonable period of time has gone by without a response, counsel may e-mail the Part 20 mailbox with the request.

Any request for an adjournment should contain proposed alternative dates that work for all counsel. The Court will either so-order or deny your request in a "reply-all" e-mail. **Even if all counsel consent to an adjournment, the Court may not necessarily grant the request. Counsel must wait for confirmation from the Court before vacating the date in their calendars.**

If the need for the adjournment was not known to counsel more than 24 hours in advance of the scheduled date (for example, a personal emergency or an unexpected priority appearance in another part), the attorney should still send an e-mail to Part 20, and include good dates. The attorney should make all efforts to secure coverage for the case. **The Court will expect the other parties to still appear to select the adjourn date unless you are notified otherwise.**

Requests for Enlargement of Time to Submit Briefs and Other Papers With Court-Imposed Deadlines

If counsel needs more time to comply with a deadline, a request for enlargement of time may be e-mailed to the Part 20 mailbox in advance of the deadline.

Unless extenuating circumstances exist, the Court expects that the requesting party will first seek the consent of opposing counsel and then inform the Court whether or not consent was given. This information should be included in the e-mail.

The Court will send a “reply-all” e-mail indicating whether the request is granted or not. In general, the Court will approve any request that has the consent of all relevant counsel. The major exception is a motion *in limine* if granting the enlargement means that an upcoming trial date must be vacated.

Requests to Appear Virtually for In-Person Appearances, or to Appear In-Person for Virtual Appearances

Part 20 will follow the policy, announced in Judge Jolly’s recent memorandum, requiring all newly scheduled hearing and trial dates to be in person. Judge Pitchal will consider and promptly rule on all requests by counsel, parties, or witnesses to appear virtually for what will otherwise be an in-person appearance. As per the new policy, all such requests must cite a compelling reason or an ADA accommodation. These requests should be e-mailed to Part 20 as far in advance of the appearance as possible. Attorneys must submit a separate request for each appearance, as the part is not able to track which lawyers have received accommodations in the past.

Judge Pitchal is aware of how complicated it will be for lawyers who have busy calendars to appear virtually for one case and then in-person for another case scheduled back-to-back, or vice versa. If any attorney expects to be present in the courthouse for an in-person matter but has a virtual appearance scheduled soon thereafter in Part 20 (or vice versa), you may appear in-person in the courtroom while the other participants appear virtually. However, the Part must know two days in advance in order to arrange for the hybrid technology (a/k/a “the cart”) to be brought to the courtroom and set up. There are not enough carts for every courtroom to have one every day, so please ask for assistance ahead of time and we will do our best to accommodate you.